



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

RQ-2

July 30, 2014

JOHN GULINO, TREASURER  
NEW YORK STATE DEMOCRATIC  
COMMITTEE  
750 THIRD AVENUE, 31ST FLOOR  
NEW YORK, NY 10017

**Response Due Date**  
**09/03/2014**

IDENTIFICATION NUMBER: C00143230

REFERENCE: APRIL MONTHLY REPORT (03/01/2014 - 03/31/2014)

Dear Treasurer:

This letter is prompted by the Commission's preliminary review of the report referenced above. This notice requests information essential to full public disclosure of your federal election campaign finances. **Failure to adequately respond by the response date noted above could result in an audit or enforcement action.** Additional information is needed for the following 4 item(s):

1. Schedule B supporting Line 29 of your report discloses a disbursement for an apparent refund or rebate to your non-federal account for an allocated expense. Please be advised the refund or rebate must be allocated between the federal and non-federal accounts according to the same allocation ratio used to allocate the original disbursement. Furthermore, the federal account must transfer the non-federal portion to the non-federal account using one of two methods.

The method of reporting described in Advisory Opinion 1995-22 allows a committee to itemize the refund or rebate as a negative entry on Schedule H4. Alternatively, a committee may disclose the receipt of the refund or rebate into the federal account on Schedule A supporting Line 15, and the transfer of the non-federal account's share to the non-federal account on Schedule H4. Please refer to the enclosed sample of properly reported refunds and rebates of allocable activity and amend your report as appropriate.

2. The Detailed Summary Page, on Line 18(a) Column A of your February Monthly (1/1/14-1/31/14), Amended March Monthly (2/1/14-2/28/14), received 4/11/4, and April Monthly (3/1/14-3/31/14) Reports combined disclose \$212,561.08 in transfers from the non-federal account for allocated activity for the reporting period. However, Line 21 (a)(ii) Column A discloses

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\$199,439.33 as the non-federal share for allocated activity for the reporting period. While the non-federal account is permitted to transfer funds to the federal account for allocated activity, transfers for allocated activity must be made within a 70-day time period: no more than 10 days before or 60 days after the payment to the vendor. (11 CFR §§106.6(e)(2) and 106.7(f)(2)) Please clarify the nature of the transfers-in from the non-federal account.

The Commission recommends that you immediately transfer back to the non-federal account, the total excessive amount which was received by your federal account outside the 70-day time period. Although the Commission may take further legal action concerning this prohibited activity, your prompt action will be taken into consideration.

**3.** Your February Monthly (1/1/14-1/31/14), Amended March Monthly (2/1/14-2/28/14), received 4/11/14, and April Monthly (3/1/14-3/31/14) Reports combined disclose limited payments for administrative expenses. Administrative expenses are payments made for the purpose of operating a political committee including, but not limited to, rent, utilities, salaries, telephone service, office equipment and supplies. Each state, district or local party committee utilizing separate federal and non federal accounts is required to allocate any administrative expenses (excluding salary) between the accounts according to a fixed percentage selected on Schedule H1. A Schedule H1 must be filed with the first FEC FORM 3X filed at the beginning of each calendar year. Payments for salary and wages for employees who spend more than 25% of their compensated time on Federal election activities or on activities in connection with a Federal election must be made from a federal account and disclosed on a Schedule B supporting Line 30(b) of the Detailed Summary Page. (11 CFR §106.7)

Any goods or services provided to your committee by a person, except volunteer activity (i.e., a person's time), would be considered an in kind contribution from that person, and would be subject to the disclosure requirements of 2 U.S.C. §434(b)(3) and 11 CFR §104.13, and the limitations and prohibitions of 2 U.S.C. §§441a and 441b. Payments to a consulting, law or accounting firm will be considered acceptable for salary.

Clarification regarding administrative expenses should be provided during each two year election cycle beginning with the first report filed in the non election year. Please provide the necessary information regarding administrative expenses incurred by your committee and/or amend your report to disclose such expenses according to the referenced provisions of the Act and Commission

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Regulations.

4. Schedule H4 supporting Line 21(a) of your report discloses a payment(s) for "Communications Consulting". Please be advised that pursuant to 11 CFR §300.33(c)(1), expenditures for public communications (as defined by 11 CFR §100.26) that refer to a clearly identified candidate for Federal office and that promote, support, attack or oppose any such candidate for Federal office must not be allocated between or among federal and non-federal accounts. Only federal funds may be used.

Further, expenditures and disbursements for public communications that refer to a clearly identified candidate for Federal office and that promote, support, attack or oppose any candidate for Federal office, meet the definition of Federal Election Activity under 11 CFR §100.24 and should be disclosed on Schedule B for Line 30(b) along with the identity of the candidate(s). However, public communications that meet the definition of Federal Election Activity and that also contain express advocacy as defined under 11 CFR §100.22, but do not meet the conditions of exempt activity, would constitute an in-kind contribution, an independent expenditure or a coordinated party expenditure and should be properly disclosed on a Schedule B, E or F supporting Lines 23, 24 or 25, as appropriate, rather than on Schedule B for Line 30(b). Please amend your report to properly disclose this activity or provide clarifying information.

If this activity was categorized incorrectly, the Commission recommends that you immediately transfer the funds received by your federal account for this activity back to the non-federal account. Although the Commission may take further legal action concerning this prohibited activity, your prompt action will be taken into consideration.

**Please note, you will not receive an additional notice from the Commission on this matter.** Adequate responses must be received by the Commission on or before the due date noted above to be taken into consideration in determining whether audit action will be initiated. Failure to comply with the provisions of the Act may also result in an enforcement action against the committee. Any response submitted by your committee will be placed on the public record and will be considered by the Commission prior to taking enforcement action. **Requests for extensions of time in which to respond will not be considered.**

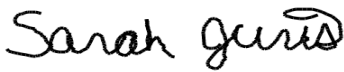
Electronic filers must file amendments (to include statements, designations and reports) in an electronic format and must submit an amended report in its entirety, rather than

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just those portions of the report that are being amended. If you should have any questions regarding this matter or wish to verify the adequacy of your response, please contact me on our toll-free number (800) 424-9530 (at the prompt press 5 to reach the Reports Analysis Division) or my local number (202) 694-1175.

Sincerely,

A handwritten signature in black ink that reads "Sarah Juris". The script is cursive and fluid, with the first name "Sarah" and last name "Juris" clearly distinguishable.

Sarah Juris  
Campaign Finance Analyst  
Reports Analysis Division

Allocating Certain Federal and Nonfederal Expenses

ALLOCATION OF IN-KIND CONTRIBUTION (B)

SCHEDULE B (FEC Form 3X)  
ITEMIZED DISBURSEMENTS

Use separate schedule(s) for each category of the Detailed Summary Page

FOR LINE NUMBER: (check only one)  

21b

22

☒ 23

24

25

26

27

28a

28b

28c

29

30b

PAGE 1 OF 1

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

NAME OF COMMITTEE (In Full)  
Freedom Party State Committee

Full Name (Last, First, Middle Initial)  
David Jacoby

A. David Jacoby

Mailing Address  
111 Harborside Ave.

City  
City

State  
ST

Zip Code  
00000

Purpose of Disbursement  
Graphics Design

Candidate Name  
June Mailing

Office Sought:  

☐ House

☐ Senate

☐ President

Disbursement For:  

☐ Primary

☐ General

☐ Other (specify)

Date of Disbursement  
06 / 01 / 2014

Amount of Each Disbursement this Period  
400.00

See allocation below.

B. Jay Meyer for Congress

Mailing Address  
111 East Egg Street

City  
City

State  
ST

Zip Code  
00000

Purpose of Disbursement  
Contribution

Candidate Name  
Jay Meyer

Office Sought:  

☒ House

☐ Senate

☐ President

Disbursement For:  

☐ Primary

☒ General

☐ Other (specify)

Date of Disbursement  
06 / 01 / 2014

Amount of Each Disbursement this Period  
200.00

MEMO

C. Bob Voterfriend for Congress

Mailing Address  
111 Bond Street

City  
City

State  
ST

Zip Code  
00000

Purpose of Disbursement  
Contribution

Candidate Name  
Bob Voterfriend

Office Sought:  

☒ House

☐ Senate

☐ President

Disbursement For:  

☐ Primary

☒ General

☐ Other (specify)

Date of Disbursement  
06 / 01 / 2014

Amount of Each Disbursement this Period  
200.00

MEMO

SUBTOTAL of Disbursements This Page (optional)

TOTAL This Period (last page this line number only)

FE3AN037.PDF

FEC Schedule B (Form 3X) Rev. 02/2003

9. REFUNDS AND REBATES OF ALLOCABLE EXPENSES

If a committee receives a refund or a rebate of an allocable expense, the refund or rebate must be deposited in the federal or allocation account. The refund or rebate must then be allocated between the federal and nonfederal accounts according to the same allocation ratio used to allocate the original disbursement. The federal account must transfer the nonfederal portion to the nonfederal account.

Example

A committee receives a \$400 rebate on office equipment from the Acme Office Store. The original purchase was an administrative expense allocated according to the following ratio: 36 percent federal; 64 percent nonfederal.

Reporting Method I on page 111 illustrates how this rebate would be reported according to the method approved in AO

NONFEDERAL TRANSFER (H3)

SCHEDULE H3 (FEC Form 3X)  
TRANSFERS FROM NON-FEDERAL ACCOUNTS FOR  
SHARED FEDERAL / NON-FEDERAL ACTIVITY

PAGE 1 OF 1  
FOR LINE 18a OF FORM 3X

NAME OF COMMITTEE (In Full)  
Freedom Party State Committee

NAME OF ACCOUNT  
Nonfederal Account

DATE OF RECEIPT  
08 / 31 / 2014

TOTAL AMOUNT TRANSFERRED  
4,000.00

iv) Direct Fundraising (List Activity or Event Identifier)

a) Big Event 2,000.00

b)

c) Total Amount Transferred For Direct Fundraising 2,000.00

v) Candidate Support (List Activity or Event Identifier)

a) Johnson / Smith Posters 2,000.00

b)

c) Total Amount Transferred For Direct Candidate Support 2,000.00

TOTALS FOR BREAKDOWN OF TRANSFER RECEIVED

TOTAL This Period (Administrative)

TOTAL This Period (Generic Voter Drive)

TOTAL This Period (Direct Fundraising Amount) 2,000.00

TOTAL This Period (Direct Candidate Support) 2,000.00

TOTAL This Period (Exempt Activities)

TOTAL This Period (Total Amount Transferred) 4,000.00

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Campaign Guide for Political Party Committees

1995-22.<sup>3</sup> Reporting Method 2 shows how the rebate would be reported under an alternative method.

Reporting Method 1

Using the method of reporting described in AO 1995-22, the committee discloses the receipt of the rebate and the federal and nonfederal shares on Schedule H4. The amounts are negative entries subtracted from total shared federal and nonfederal disbursements for the reporting period (disclosed on Lines 21a(i) and (ii) of the Detailed Summary Page).

Reporting Method 2

Under the alternative method, the committee reports the receipt of the \$400 rebate under the category “Offsets to Operating Expenditures” on Line 15 of the Form 3X Detailed Summary Page. The committee uses Schedule H4 to disclose the federal account’s \$256 transfer to the nonfederal account for the nonfederal share.

ALLOCATED PAYMENT (H4)

SCHEDULE H4 (FEC Form 3X)  
DISBURSEMENT FOR SHARED FEDERAL/NON-FEDERAL  
ACTIVITY SCHEDULE

PAGE 1 OF 1  
FOR LINE 21a OF FORM 3X

NAME OF COMMITTEE (In Full)  
Freedom Party State Committee

A. Full Name (Last, First, Middle Initial)  
Acme Printing

Mailing Address  
111 Gutenberg St.

City  
City

State  
ST

Zip Code  
00000

Purpose of Disbursement:  
Printing (see below)

Activity or Event Identifier:  
Printing (see below)

Allocated Activity or Event:  
☐ Administrative ☐ Fundraising ☐ Exempt  
☐ Voter Drive ☐ Direct Candidate Support

Allocated Activity or Event Year-To-Date  
MEMO 11,000.00

Date  
09 / 01 / 2014

FEDERAL SHARE + NON-FEDERAL SHARE = TOTAL AMOUNT

MEMO 11,000.00

B. Full Name (Last, First, Middle Initial)  
Acme Printing

Mailing Address  
111 Gutenberg St.

City  
City

State  
ST

Zip Code  
00000

Purpose of Disbursement:  
Printing Invitations

Activity or Event Identifier:  
Big Event

Allocated Activity or Event:  
☐ Administrative ☒ Fundraising ☐ Exempt  
☐ Voter Drive ☐ Direct Candidate Support

Allocated Activity or Event Year-To-Date  
5,000.00

Date  
09 / 01 / 2014

FEDERAL SHARE + NON-FEDERAL SHARE = TOTAL AMOUNT

3,000.00 2,000.00 5,000.00

C. Full Name (Last, First, Middle Initial)  
Acme Printing

Mailing Address  
111 Gutenberg St.

City  
City

State  
ST

Zip Code  
00000

Purpose of Disbursement:  
Printing

Activity or Event Identifier:  
Johnson / Smith Posters

Allocated Activity or Event:  
☐ Administrative ☐ Fundraising ☒ Exempt  
☐ Voter Drive ☐ Direct Candidate Support

Allocated Activity or Event Year-To-Date  
6,000.00

Date  
09 / 01 / 2014

FEDERAL SHARE + NON-FEDERAL SHARE = TOTAL AMOUNT

4,000.00 2,000.00 6,000.00

SUBTOTAL of Allocated Federal and Non-Federal Activity This Page

FEDERAL SHARE + NON-FEDERAL SHARE = TOTAL AMOUNT

7,000.00 4,000.00 11,000.00

TOTAL This Period (last page for each line only)(Federal share to 21(a)(i) and Non-Federal share to 21(a)(ii))

FEDERAL SHARE + NON-FEDERAL SHARE = TOTAL AMOUNT

7,000.00 4,000.00 11,000.00

TOTAL This Period for the Non-Federal Share

4,000.00

3 Although AO 1995-22 is no longer applicable to national party committees as of 2002, it may still apply to state, district and local party committees.

Allocating Certain Federal and Nonfederal Expenses

ALLOCATION OF REBATE (H4) (METHOD 1)

SCHEDULE H4 (FEC Form 3X)  
DISBURSEMENT FOR SHARED FEDERAL/NON-FEDERAL  
ACTIVITY SCHEDULE

PAGE 1 OF 1  
FOR LINE 21a OF FORM 3X

NAME OF COMMITTEE (In Full)  
Freedom Party State Committee

A. Full Name (Last, First, Middle Initial)  
Acme Office Supplies

Mailing Address  
111 Paddenpencil St.

City  
City

State  
ST

Zip Code  
00000

Purpose of Disbursement:  
Rebate

001

Activity or Event Identifier:  
Rebate

Category/  
Type

Allocated Activity or Event:  
☒ Administrative ☐ Fundraising ☐ Exempt  
☐ Voter Drive ☐ Direct Candidate Support

Allocated Activity or Event Year-To-Date  
6,600.00

Date  
03 / 15 / 2014

FEDERAL SHARE + NON-FEDERAL SHARE = TOTAL AMOUNT

-144.00 -256.00 -400.00

RECEIPT OF REBATE (A/LINE 15) (METHOD 2)

SCHEDULE A (FEC Form 3X)  
ITEMIZED RECEIPTS

FOR LINE NUMBER: (check only one)  
PAGE 1 OF 1  
11a 11b 11c 12 13 14 15 16 17

NAME OF COMMITTEE (In Full)  
Freedom Party State Committee

A. Full Name (Last, First, Middle Initial)  
Acme Office Supplies

Mailing Address  
111 Paddenpencil St.

City  
City

State  
ST

Zip Code  
00000

FEC ID number of contributing  
federal political committee.  
C

Amount of Each Receipt this Period  
400.00

Name of Employer  
Occupation

Rebate.

Receipt For:  
☐ Primary ☐ General  
☐ Other (specify)

Aggregate Year-to-Date  
400.00

Use separate schedule(s)  
for each category of the  
Detailed Summary Page

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions  
or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

NONFEDERAL TRANSFER (H4) (METHOD 2)

SCHEDULE H4 (FEC Form 3X)  
DISBURSEMENT FOR SHARED FEDERAL/NON-FEDERAL  
ACTIVITY SCHEDULE

PAGE 1 OF 1  
FOR LINE 21a OF FORM 3X

NAME OF COMMITTEE (In Full)  
Freedom Party State Committee

A. Full Name (Last, First, Middle Initial)  
Freedom Party State Committee Nonfederal Account

Mailing Address  
111 Politics St.

City  
City

State  
ST

Zip Code  
00000

Purpose of Disbursement:  
Transfer of Nonfederal Share of Rebate

001

Activity or Event Identifier:  
(See Schedule A)

Category/  
Type

Allocated Activity or Event:  
☒ Administrative ☐ Fundraising ☐ Exempt  
☐ Voter Drive ☐ Direct Candidate Support

Allocated Activity or Event Year-To-Date  
6,600.00

Date  
03 / 15 / 2014

FEDERAL SHARE + NON-FEDERAL SHARE = TOTAL AMOUNT

256.00 0.00 256.00

10. PROHIBITED IN-KIND DONATIONS FOR ALLOCABLE ADMINISTRATIVE AND FUNDRAISING ACTIVITIES

While contributions from corporations, labor organizations and federal government contractors to a party committee’s federal account are prohibited under federal law, some states permit such donations for nonfederal activity. If that is the case, donations from corporations, labor organizations and federal government contractors may be accepted into a nonfederal account for strictly nonfederal activity. However, the situation is more complicated when donations of goods or services from such sources are made in connection with allocable activity, such as a fundraiser at which both federal and nonfederal funds are collected. The acceptance of nonfederal goods or services has been limited to allocable administrative or fundraising activity. See AO 1992-33.<sup>4</sup>

Advance Payment of Federal Share

To avoid the receipt of a prohibited contribution, the federal account must pay the nonfederal account for the federal share of the in-kind donation. This payment—a transfer to the nonfederal account—must be made in advance or on the date the goods or services are received.

4 In AO 1992-33, the Commission explained how a party committee can legally accept an in-kind donation from a prohibited source in connection with an allocable administrative or fundraising activity. Note that the AO explicitly did not apply this allowance to the acceptance by nonfederal accounts of in-kind corporate donations for voter drive activity, direct candidate support, or exempt activities. Although AO 1992-33 no longer applies to national party committees, it may still apply to state, district and local party committees in certain circumstances.

Chapter 13

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